

## Government Operations - 2

Presidential Directive Could Be Reissued:

# Passage of Polygraph Curbs Seems Doubtful

A bill to curb the federal government's use of lie detector tests advanced the week of Sept. 17, but sponsors doubt that it will become law this year.

The House Armed Services Committee Sept. 19 became the second panel to approve the bill (HR 4681), which would limit the use of lie detector tests (polygraphs) and prohibit the federal government from requiring employees to submit their writings for pre-publication review.

The House Post Office and Civil Service Committee reported the bill Aug. 6 (H Rept 98-961, Part I). (*Weekly Report* p. 1594)

HR 4681 was introduced in response to a proposed administration directive requiring about 120,000 federal employees with access to sensitive classified information to submit their writings for pre-publication review, and stepping up the federal government's use of polygraphs.

The proposed directive, which was aimed at curbing leaks of classified information, provoked an outcry in Congress, and in response, the administration announced in March that it had suspended the directive for the rest of the 1984 congressional session. (*Weekly Report* p. 931)

Supporters of the bill say that despite that assurance, agencies have required employees to sign contracts agreeing that they would submit their writings for pre-publication review, and have been using polygraphs. HR 4681 would cancel any existing pre-publication review contract, ban future ones, and prohibit agencies from requiring employees or applicants for employment to submit to polygraphs, except for criminal investigations.

But the Senate has no comparable bill, and Sen. Charles McC. Mathias Jr., R-Md., a supporter of its provisions, said Sept. 19 that the Senate "will be extremely reluctant to approve" anything like HR 4681.

Rep. Jack Brooks, D-Texas, sponsor of HR 4681, agreed. "The Republican Senate does not seem eager to pass this legislation, which will protect the rights of individuals," he said.

Before the bill reaches the Senate, though, it will have a rough road through the House. The Armed Ser-

vices panel, endorsing a recommendation of its Investigations Subcommittee, voted to give a partial exemption to the Department of Defense. The bill as introduced would exempt the CIA and National Security Agency (NSA). (*Weekly Report* p. 2260)

The Judiciary Committee and the Permanent Select Committee on Intelligence also share jurisdiction over the measure, and members of each would like to exempt additional agencies.

Sponsors warned that too many exemptions would gut the bill, but Brooks said that passage would be a step forward. "I think the bill is better without exemptions," he said, "but we can cut down the number of intimidating and useless polygraph tests."

## Armed Services Action

The House Armed Services Committee unanimously approved HR 4681, after adopting an amendment giving the Defense Department limited authority to administer polygraphs.

The amendment would allow the use of polygraphs for seven specific purposes, primarily to clear individuals for access to high-level security information. Bill Nichols, D-Ala., chairman of the Investigations Subcommittee and author of the amendment, said that polygraphs have been useful in detecting and deterring espionage.

In 1983, according to Armed Services staff, the Pentagon conducted about 3,500 polygraph tests. A provision in the Senate version of the fiscal 1985 defense authorization (HR 5167) would limit the department to 3,500 tests in fiscal 1985. That measure became hung up in conference. (*Weekly Report* p. 1811; related story, p. 2291)

Nichols added that the exemption was necessary, because some Defense Department employees see the same information CIA and NSA employees see. "It has the same requirements for assuring the reliability of its personnel as their agencies," he said.

Larry J. Hopkins, R-Ky., ranking minority member of the subcommittee, said that the Defense Intelligence Agency was as much a part of the nation's security apparatus as the CIA and NSA. "It makes absolutely no

sense to protect two-thirds, and leave one-third open," he said.

But Bob Stump, R-Ariz., a member of the Intelligence Committee, said more agencies should be exempt. "I don't think we've gone far enough," he said.

Specifically, Stump said that the FBI, because of its counterintelligence programs, should also be able to use polygraphs.

The Judiciary Committee has jurisdiction over the FBI, and F. James Sensenbrenner Jr., R-Wis., said he had prepared an amendment to exempt the FBI from the bill's provisions, if the measure came up in committee. However, the panel did not consider the bill during its Sept. 18 meeting, and Don Edwards, D-Calif., said the committee will probably waive its right to consider the bill.

"We can't improve it any," Edwards said.

Sensenbrenner said he will offer his amendment to exempt the FBI when the bill reaches the floor. "It seems to me the FBI handles equally sensitive things in the domestic arena," he said.

But Sensenbrenner added that the few legislative days left in the session might prevent the bill from reaching the floor. "I really don't see the time to get this bill passed," he said.

## Future Prospects

If the bill fails to become law, the administration will be free to reissue its directive.

Regardless, members said that agencies were currently requiring employees to agree to submit writings for pre-publication review, and to take polygraphs. "They're doing most of it now under other directives," said Brooks. "Thousands and thousands are still taking polygraphs. Individual agency directives are not prohibited by the president's fraudulent comment that he was not going to do it anymore."

But Mathias said that if the administration reissues its proposal, "There will be a very strong feeling about it in the Senate and in the country."

He added that any proposal would have to be public. "We'll be looking at it," Mathias warned. ■

—By Robert Rothman